

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

---

RADNET MANAGEMENT, INC. D/B/A SAN  
FERNANDO VALLEY INTERVENTIONAL  
RADIOLOGY AND IMAGING CENTER

RADNET MANAGEMENT, INC. D/B/A SAN  
FERNANDO VALLEY ADVANCED IMAGING  
CENTER,

Petitioners

*versus*

NATIONAL LABOR RELATIONS BOARD,

Respondent

Docket No: 19-71261

---

**ANSWER TO APPLICATION FOR ENFORCEMENT OF AN ORDER  
OF THE NATIONAL LABOR RELATIONS BOARD**

Pursuant to Rule 15(b) of the Federal Rules of Appellate Procedure, RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center and RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center, as the Petitioners in the above-captioned case, hereby answer, by and through the Undersigned Counsel, the Application for Enforcement (hereafter, the “Application”) filed by the National Labor Relations Board (hereafter, the “Board”) in the above-captioned case on May 21, 2019 as follows:

1. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center admits the procedural factual allegations set forth in the Application.
2. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center admits the procedural factual allegations set forth in the Application.
3. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center admits the jurisdictional allegations set forth in the Application.
4. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center admits the jurisdictional allegations set forth in the Application.
5. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center admits the venue allegations set forth in the Application, but denies that any unfair labor practices were committed.
6. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center admits the venue allegations set forth in the Application, but denies that any unfair labor practices were committed.
7. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Request for Review of the

Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209388, because the Board refused to permit litigation of, and failed to recognize the import of, the affiliation between the Union and the International Association of Machinists and Aerospace Workers (hereafter, the "IAMAW"), which was never disclosed to eligible voters, and which therefore affected the validity of the December 6, 2017 election.

8. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209388, because the Board affirmed the prejudicial and erroneous rulings made by the Hearing Officer and the Regional Director for Region 31 of the Board in connection with the contention that the Union and / or the IAMAW had engaged in harassment and intimidation of eligible voters in the December 6, 2017 election, and thereby refused to permit litigation of the issue.

9. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209388, because the Board refused to permit litigation of, and failed to set aside the December 6, 2017 election on the basis of, the Board Agent's failure to adequately police the polling area during the December 6, 2017 election.

10. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209388, because the Board refused to permit litigation of, and failed to set aside the December 6, 2017 election on the basis of, the actions of the Union's observer during the December 6, 2017 election.

11.RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209388, because the Board refused to permit litigation of, and failed to set aside the December 6, 2017 election on the basis of, the Board Agent's misrepresentation to eligible voters of the Board's challenged ballot procedures during the December 6, 2017 election.

12.RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209388, because the Board erred by eschewing its obligation to ensure that the unit sought by the Union, and ultimately certified by the Board, did not include with non-

guard members those employees defined as guards by Section 9(b)(3) of the National Labor Relations Act.

13. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209388, because the Board erred by failing to recognize the unlawful application of the Board's revised election rules, both as a facial matter, and as applied to the facts of the underlying representation proceedings.

14. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209424, because the Board refused to permit litigation of, and failed to recognize the import of, the affiliation between the Union and the

International Association of Mechanics and Allied Workers that was never disclosed to eligible voters, and which therefore affected the validity of the December 8, 2017 election.

15. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the "Union") on July 25, 2018 in Case No. 31-RM-209424, because the Board affirmed the prejudicial and erroneous rulings made by the Hearing Officer and Regional Director for Region 31 of the Board in connection with the contention that the Union and / or the IAMAW had engaged in harassment and intimidation of eligible voters in the December 8, 2017 election, and thereby refused to permit litigation of the issue.

16. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center's Request for Review of the Regional Director for Region 31 of the Board's Decision and Certification of Representative to the National Union of

Healthcare Workers (hereafter, the “Union”) on July 25, 2018 in Case No. 31-RM-209424, because the Board refused to permit litigation of, and failed to set aside the December 8, 2017 election on the basis of, the Board Agent’s misrepresentation to eligible voters of the Board’s challenged ballot procedures during the December 8, 2017 election.

17. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center’s Request for Review of the Regional Director for Region 31 of the Board’s Decision and Certification of Representative to the National Union of Healthcare Workers (hereafter, the “Union”) on July 25, 2018 in Case No. 31-RM-209424, because the Board erred by eschewing its obligation to ensure that the unit sought by the Union, and ultimately certified by the Board, did not include with non-guard members those employees defined as guards by Section 9(b)(3) of the National Labor Relations Act.

18. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its denial of RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center’s Request for Review of the Regional Director for Region 31 of the Board’s Decision and Certification of Representative to the National Union of



Healthcare Workers (hereafter, the “Union”) on July 25, 2018 in Case No. 31-RM-209424, because the Board erred by failing to recognize the unlawful application of the Board’s revised election rules, both as a facial matter, and as applied to the facts of the underlying representation proceedings.

19.RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center’s Motion for Reconsideration by substantively failing to take official notice, or meaningful review, of the record developed in Case No. 31-RM-209388.

20.RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center’s Motion for Reconsideration by substantively failing to take official notice, or meaningful review, of the record developed in Case No. 31-RM-209424.

21.RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of

its February 14, 2019 Decision and Order and April 3, 2019 Order denying the Petitioners' Motions for Reconsideration in Case Nos. 31-CA-222587 and 31-CA-225390 by way of the Board's conclusion that the Petitioners had been permitted with a full and fair opportunity to litigate issues with the representation proceedings in Case No. 31-RM-209388 and Case No. 31-RM-209424 during those proceedings.

22.RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying the Petitioners' Motions for Reconsideration in Case Nos. 31-CA-222587 and 31-CA-225390 by way of the Board's conclusion that the Petitioners had been permitted with a full and fair opportunity to litigate issues with the representation proceedings in Case No. 31-RM-209388 and Case No. 31-RM-209424 during those proceedings.

23.RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying the Petitioners' Motions for Reconsideration by failing to appropriately address, let alone distinguish, the Board's precedent in Sub-Zero Freezer Co., 271 NLRB 47 (1984) and its progeny.

24.RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying the Petitioners' Motions for Reconsideration by failing to appropriately address, let alone distinguish, the Board's precedent in Sub-Zero Freezer Co., 271 NLRB 47 (1984) and its progeny.

25.RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying the Petitioners' Motions for Reconsideration by refusing to review the representation case proceedings in Case Nos. 31-RM-209388 and 31-RM-209424 as part of Case Nos. 31-CA-222587 and 31-CA-225390, pursuant to Sub-Zero Freezer Co., 271 NLRB 47 (1984) and its progeny.

26.RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying the Petitioners' Motions for Reconsideration by refusing to review the representation case proceedings in Case Nos. 31-RM-209388 and 31-RM-209424 as part of Case Nos. 31-CA-222587 and 31-CA-225390, pursuant to Sub-Zero Freezer Co., 271 NLRB 47 (1984) and its progeny.

27. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Motion for Reconsideration by refusing to vacate the Certification of Representative issued to the Union in Case No. 31-RM-209388.

28. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center's Motion for Reconsideration by refusing to vacate the Certification of Representative issued to the Union in Case No. 31-RM-209424.

29. RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Motion for Reconsideration by refusing to dismiss the unfair labor practices alleged in Case Nos. 31-CA-222587 and

31-CA-225390 on the grounds that the Certification of Representative issued to the Union in Case No. 31-RM-209388 should have been vacated.

30.RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center's Motion for Reconsideration by refusing to dismiss the unfair labor practices alleged in Case Nos. 31-CA-222587 and 31-CA-225390 on the grounds that the Certification of Representative issued to the Union in Case No. 31-RM-209388 should have been vacated.

31.RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center's Motion for Reconsideration by refusing to investigate, address, or consider - and refusing to permit RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and Imaging Center to litigate - the affirmative defenses raised by the RadNet Management, Inc. d/b/a San Fernando Valley Interventional Radiology and

Imaging Center's November 5, 2018 Amended Answer in Case Nos. 31-CA-222587 and 31-CA-225390.

32. RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center avers that the Board erred in the issuance of its February 14, 2019 Decision and Order and April 3, 2019 Order denying RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center's Motion for Reconsideration by refusing to investigate, address, or consider - and refusing to permit RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center to litigate - the affirmative defenses raised by the RadNet Management, Inc. d/b/a San Fernando Valley Advanced Imaging Center's November 5, 2018 Amended Answer in Case Nos. 31-CA-222587 and 31-CA-225390.

WHEREFORE, the Petitioners pray that the Board's Application for Enforcement be denied.

Dated: Mount Pleasant, South Carolina  
June 11, 2019

Respectfully Submitted,

*Kaitlin Kasetta Lammers*

---

KAITLIN KASETA LAMMERS  
1809 Carolina Park Boulevard  
Mt. Pleasant, South Carolina 29466  
(860) 307-3223  
[kkasetta@carmodyandcarmody.com](mailto:kkasetta@carmodyandcarmody.com)

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

---

RADNET MANAGEMENT, INC. D/B/A SAN  
FERNANDO VALLEY INTERVENTIONAL  
RADIOLOGY AND IMAGING CENTER

RADNET MANAGEMENT, INC. D/B/A SAN  
FERNANDO VALLEY ADVANCED IMAGING  
CENTER,

Petitioners

*versus*

NATIONAL LABOR RELATIONS BOARD,

Respondent

Docket No: 19-71261

---

**CERTIFICATE OF SERVICE**

I hereby certify that, on June 11, 2019, I electronically filed the foregoing with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM / ECF system. I certify that the foregoing document was served on all those parties or their counsel of record through the CM / ECF system if they are registered users, or if they are not, by serving a true and correct copy at the addresses listed below:

David Habenstreit  
National Labor Relations Board  
1015 Half Street, SE  
Washington, DC 20570



Usha Dhennan  
National Labor Relations Board  
1015 Half Street, SE  
Washington, DC 20570

Rebecca Jean Johnston  
National Labor Relations Board  
1015 Half Street, SE  
Washington, DC 20570

Florice Hoffman  
Counsel for the Charging Party  
National Union of Healthcare Workers  
8502 East Chapman Avenue, Suite 353  
Orange, CA 92896-2461

Dated: Mount Pleasant, South Carolina  
June 11, 2019

Respectfully Submitted,

*Kaitlin Kaseta Lammers*

---

KAITLIN KASETA LAMMERS  
1809 Carolina Park Boulevard  
Mt. Pleasant, South Carolina 29466  
(860) 307-3223  
kkaseta@carmodyandcarmody.com